

INSTRUCTIONS FOR COMPLETING PRETRIAL STIPULATION

You will receive a Second Pretrial Order that will set an appropriate period for the conclusion of discovery and the date on which the pretrial stipulation must be filed. With regard to discovery, the total number of written interrogatories submitted by a party shall not exceed twenty-five (25) questions, including subparts.

In accordance with Rule 7005 of the Fed.R.Bank.P., depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless upon order of the Court, or when used as evidence in a proceeding in this case, or, in relevant part, as exhibits to any motion concerning discovery.

The pretrial stipulation available at www.pawb.uscourts.gov/jkf.htm must be used. The purpose of this form is to encourage pretrial interaction between counsel and thus to simplify trial. Only one form, prepared by all counsel, shall be filed. Be certain to fill in the caption and action numbers (document numbers and adversary numbers) accurately. Plaintiff shall electronically file the pretrial stipulation, in accord with the instructions therein.

Sections III, IV and V of the form require concise statements of the parties' contentions and nothing more. Evidentiary detail shall be omitted. With regard to Section VI, if there are no stipulated facts, so state. Concerning Section IX, no brief will be accepted which exceeds twenty (20) pages in length except upon order of Court. Reply and sur-reply briefs are permitted **only** with leave of court and, if permitted, shall not exceed five (5) pages.

If sufficient space is not available under any section of this stipulation, attach a supplemental paper of the same size as this form.

Please consult the current Local Rules and Procedures and any Case Management or Case Administrative Order entered in the case.

In the event you wish to petition the Court for an award of attorney's fees, you must itemize fees and expenses in compliance with the Local Rules and applicable U.S. Trustee guidelines.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

)	
)	Bankruptcy No.
Debtor)	Adversary No.
)	Document No.
)	Chapter
)	
)	
)	<u>PRETRIAL STIPULATION</u>
Plaintiff)	
)	
vs.)	
)	
)	
Defendant/)	
Third Party Plaintiff)	
)	
vs.)	
)	
)	
Third Party Defendant)	

It is stipulated by and between the parties that:

I. Nature of Proceedings:

A. This is an action for:

B. Estimated length of trial is:

II. Jurisdiction:

(State statutory basis and whether facts relative to jurisdiction and/or venue are disputed or agreed. Further, state whether the proceeding is core or non-core and the statutory basis therefore.)

III. Plaintiff's narrative statement of the case:

(Including particularly a statement of plaintiff's theory of defendant's liability, plaintiff's injuries (personal and/or proprietary), and plaintiff's damages.)

IV. Defendant's/Third Party Plaintiff's narrative statement of the case:

V. Third Party Defendant's narrative statement of the case:

- VI. The following facts are stipulated by the parties and require no proof: (Number and list each stipulated fact.)
- VII. The exhibits to be offered at trial, together with a statement of all admissions by and all issues between the parties with respect thereto are:
- A. Listing Exhibits and Admissions and Objections to Exhibits:
1. List all documents and things intended to be offered at trial by each party, in the sequence proposed to be offered, with a description of each sufficient for identification.
 2. Include a statement of all admissions or disputes between the parties and state the basis of the objection to admissibility.
 3. If no objections are noted following the description of an exhibit, the parties are deemed to have agreed to the admission of the exhibit at trial.
- B. Marking exhibits for identification before trial:

Prior to trial, all exhibits shall be marked with the following information: the party's name, exhibit number, Bankruptcy Case number, Adversary number, if appropriate, and the date of trial. Plaintiffs shall use numbers. Defendants/Third Party Plaintiffs and Third Party Defendants shall use letters. Example:

Pltf Name Exh. #1 Bk. # Adv. # 12/7/03
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Def. Name Exh. A Bk. # Adv. # 12/7/03

C. Exhibit Lists:

1. Counsel shall also prepare a list of exhibits on the form enclosed herein, in sequence, with a descriptive notation sufficient to identify each separately numbered exhibit. Counsel shall furnish a copy of the list to opposing counsel, paper file the original with this pretrial stipulation and e-file the list without attachments as part of the e-filed pretrial stipulation.
2. Within two (2) business days after filing the pretrial stipulation, plaintiff's counsel shall bring to chambers a binder containing the entire pretrial stipulation with an index of all exhibits and a copy of all the exhibits, separately tabbed and premarked for identification. Plaintiff's counsel shall bring an additional complete binder to trial for use by the witnesses.
3. Unless an objection is noted on the exhibit form, the exhibits will be admitted without further testimony. As to any objections noted, the admissibility of those exhibits will be considered at the final pretrial conference or at the trial, as appropriate.
4. Counsel are the custodians of their exhibits throughout the trial.
5. All exhibits will be returned to the courtroom clerk at the conclusion of the trial. The clerk will retain the exhibits for 30 days after expiration of the time for appeal, then they will be destroyed. If there is no appeal and you wish to have your exhibits returned to you, you must make the necessary arrangements with the clerk before the 30 day period expires.
6. Examination of witnesses and argument may be conducted from counsel table or from the lectern. A microphone must be used.
7. If necessary to offer, explain, or examine an exhibit, counsel shall request leave to approach the bench or the witness.

EXHIBIT LIST

EXHIBITS FILED ON BEHALF OF: _____

BANKRUPTCY CASE NO. _____

ADV. NO. _____

DOCKET NO. _____

DATE OF HEARING OR TRIAL _____

HEARING/TRIAL RE:

VS.

Identification

[illegible]

VIII. A complete list of all witnesses including names and addresses follows:

(If any witnesses are to be called as experts, an expert's report must be attached to this pretrial stipulation.)

IX. Issues of Law:

The following issues of law are contested and remain to be argued at trial.

(A brief shall be filed by each of the parties setting forth the authorities in support of their respective legal positions. Briefs shall not exceed twenty (20) pages. Reply and sur-reply briefs, if permitted by the court, shall not exceed five (5) pages and shall address only matters not addressed in the initial brief.

X. Stipulation:

The foregoing admissions of fact having been made, and the parties having specified the issues of fact and law remaining to be litigated, this stipulation shall supplement the pleadings and govern the course of the hearing or trial unless a modification to prevent injustice is approved by the Court.

XI. Authorization:

The filing of this document constitutes a certification by the filing party that (1) all parties or counsel, as identified on the signature page, have signed the original document and that the filing party has possession of the signed original and will produce it to the court upon request and (2) the filed document is an exact duplicate of the original in the possession of the filing party. Any inaccuracy shall be brought to the attention of the filing party within two business days of the filing of this document. The filing party shall promptly file an amendment to correct any inaccuracy. Failure to timely alert the filing party of any inaccuracy bars a later challenge.

STIPULATED AND AGREED BY:

Attorney for Plaintiff

Attorney for Defendant/Third Party Plaintiff

Attorney for Third Party Defendant